

National Assembly for Wales

Health and Social Care Committee

Inquiry into new psychoactive substances (“legal highs”)

Evidence from Association of Chief Trading Standards Officers (ACTSO) – LH AI 03

Further Information on NPS for the Welsh Assembly Select Committee on Health and Social Care from the Association of Chief Trading Standards Officers.

Enforcement Toolkit:

A copy of the NPS Enforcement case studies template has been provided.

This template is available for local authorities to complete with details of enforcement action taken to tackle the sale of NPS locally. There is a forum on the LGA’s Knowledge Hub relating to NPS and authorities are being encouraged to complete this enforcement template and upload it into that forum. The forum is also being populated with other material, including guidance and information sources. The intention is to create a repository of useful information to help local authorities dealing with NPS (although the focus of this is enforcement rather than wider issues such as education and awareness raising). Through the completion of the case study templates authorities can share their experiences with colleagues in other local authorities. In particular, it is believed that access to information on the enforcement strategies employed by local authorities, with background information on that local problem, the challenges faced and outcomes achieved, will be of use to local authorities seeking to develop more effective local strategies.

Views on the Anti-Social Behaviour Crime and Policing Act 2014:

The tools and powers in the Anti-social Behaviour, Crime and Policing Act 2014 offer a further means for councils and the police to take action against ‘headshops’ although they were introduced too recently for them to have been tested.

The most relevant powers in the legislation for dealing with the sale of NPS are likely to be the community protection notices (CPNs), public spaces protection orders (PSPOs), and the powers to close premises.

The CPNs can be issued to a person over 16, or to a body such as a company or other organisation by a council or the police. The notice can be issued where the conduct of the individual or body has a detrimental effect of a persistent or continuing nature on the quality of life of those in the locality and the conduct is unreasonable. The notice itself can prohibit specified things or require them. Breach of the notice is a criminal offence.

The ability to make a public spaces protection order lies solely with councils. For an order to be made a local authority has to be satisfied that activities carried on in a public space have had or will have a detrimental effect on the quality of life of those in the locality. These activities also have to be or are likely to be of a continuing or persistent nature and the effect of them is such as to make the activities unreasonable. As with the CPN the PSPO can prohibit or require specific things to be done, and failure to comply with it is a criminal offence.

The police or a council can issue a closure notice if the use of a particular premises has resulted or is likely to result in nuisance to members of the public, or there is likely to be or has been disorder near

the premises which is associated with the use of that premises. The closure notice can be used to prohibit access to a premises by anyone other than the owner or someone who lives there.

The court can then make a closure order where it is satisfied that has or is likely to engage in disorderly, offensive or criminal behaviour, or the use of the premises has or is likely to result in serious nuisance to members of the public, or there has or is likely to be disorder near the premises associated with the use of the premises.

Councils could use the CPN to prevent headshops from selling NPS. In doing so the council would have to show that the sale of NPS has a detrimental effect on the quality of life of those in the locality, that it is continuing and that such sales amount to unreasonable conduct.

Seeking a closure order may have even greater impact on a headshop that sells NPS. To use the closure order powers, a case will need to be prepared providing evidence that the sale of NPS results in a serious nuisance to members of the public or results in disorder near to the headshop.

ACTSO considers that the new powers available in the Anti-Social Behaviour, Crime and Policing Act provide additional options to address problems associated with NPS. However, they are only available when some degree of nuisance, disorder or adverse impact on quality of life in the locality can be evidenced. In many cases, the harm presented by NPS relates to personal health rather than the wider community or locality. Therefore, it may prove difficult in practice to meet the evidence thresholds required for use of the new powers but they may be available in some circumstances.

Richard Webb

ACTSO Secretary

21st November 2014

New psychoactive substances (NPS) Trading Standards enforcement case study

Please provide as much information as possible but do not include any personal or restricted information such as names of individuals or companies subject to enforcement action unless this information has already been published.

Local Authority:
Date of template completion:
Contact for further information (name, phone number and email):
Brief 'headline' summary of action taken:
Background (Please outline the background to the action you are taking including- <ul style="list-style-type: none">• Number of sellers/businesses located in your authority's area• Whether these sellers are part of a chain or operating individually?• The type of business concerned (e.g. retailer, wholesaler, manufacturer, on-line seller, etc).• Types of product being sold.• Any harms (community or individual) identified from this sale (Anti-social behaviour, health harms, associated crime).)

- Previous or concurrent efforts by your team or other agencies to reduce these harms (education / health / police enforcement).
- Your overall aim (e.g. to disrupt, to end the supply through the shops, etc.)

Enforcement option used

- Which powers under which legislation?
- Combined effort with any other agencies?

Process undertaken

- Time taken to complete each stage.
- The main challenges you anticipated.
- Expert evidence used? If so, please provide source/contact details.
- Other sources of evidence used (e.g. evidence of the harm being caused).
- Do you have template documents, business or officer guidance, processes or similar materials you would be willing to share?

Outcome / current state of play (if action is ongoing)

- Penalties issued to offenders.
- Impact on future trading.
- If action is ongoing – anticipated / desired outcome.
- Next steps planned.

Lessons learnt

- Key challenges faced.
- Will anything be done differently in future?